माननीय उच्च न्यायालय छत्तीसगढ़, बिलासपुर(छ.ग.)

W.P. No.3275/ 2004

पंचम लाल देवांगन आ. स्व. श्री सुन्दर लाल देवांगन
निवासी ग्राम नारायणपुर
तह. नारायणपुर जिला बस्तर (छ.ग.) .. .. **याचिकाकर्ता**

''विरूद्ध''

छत्तीसगढ़ शासन द्वारा

1. सचिव,
   खाद्य नागरिक आपूर्ति एवं
   उपभोक्ता संरक्षरण विभाग/मंत्रालय
   छत्तीसगढ़ रायपुर (छ.ग.)
2. अध्यक्ष
   बस्तर विकास प्राधिकरण
   जगदलपुर छत्तीसगढ़
3. कलेक्टर
   जगदलपुर जिला बस्तर (छ.ग.)
4. खाद्य अधिकारी
   जिला कार्यालय खाद्य शाखा
   जगदलपुर जिला बस्तर (छ.ग.)
5. अनुविभागीय अधिकारी (राजस्व)
   नारायणपुर जिला बस्तर (छ.ग.) .. .. **उत्तरवादीगण**

P.R. No. 3280/04
Presented by Shri Tanveer Khan
dated 15-4-04

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15/9/04
Clerk to A. G. Bilaspur

10/9/04

प्रादेश/रीट याचिका अंतर्गत अनुच्छेद 226 सहपठीत अनुच्छेद 227 भारतीय, संविधान।

HIGH COURT OF JUDICATURE AT BILASPUR (C.G)

Writ Petition No.3275 of 2004

Panchamlal Dewangan

Vs.

State of Chhattisgarh and others

ORDER

Post for 6.01.2005

Sd/-
Sunil Kumar Sinha
Judge

(19)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G)

Writ Petition No.3275 of 2004

Panchamlal Dewangan

Vs.

State of Chhattisgarh and others

Shri Abdul Wahab Khan, counsel for the Petitioner
Shri M.P.S. Bhatia, Panel Lawyer for the State on advance copy

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ORDER
(6 .01.2005)

Sunil Kumar Sinha, J,

Heard on admission.

(2) By this writ petition filed under Article 226/227 of the Constitution of India the petitioner has virtually challenged the legality of the order dated 31.3.2003 (Annexure P-2) by which the services of the petitioner have been terminated by the authorities of *Adim Jati Seva Sahkari Samiti Maryadit, Narayanpur,* District Bastar (C.G) on account of privatization and separate allotment of the fair price shop on the name of petitioner in his personal capacity. He has also prayed for a direction for not canceling the shop which was allotted to him vide order dated 21.3.2003 (Annexure P-1). He has further prayed that the respondents be directed to continue with the fair price shops allotted under Master Scheme 2001.

(3) According to the petitioner, he was appointed as a sales-man of the price shop of Adim Jati Seva Sahkari Samiti Maryadit, Narayanpur, on 12.8.1987. The fair price shop was

being run by the said Co-operative Society. Later on, the Government introduced a new food distribution scheme commonly known as "Master Scheme 2001" and the shops were cancelled and the same were allotted to the individual persons. According to the order dated 21.3.2003 (Annexure P-1) after cancellation of the fair price shops of the Co-operative Society, Narayanpur, shop at Narayanpur was allotted to the petitioner in his personal capacity. The petitioner was running his shop since 21.3.2003 in his private capacity and there was no concern with the co-operative society. Later on, in consequence of the aforesaid separate allotment in the name of the petitioner, the Society passed the impugned order dated 31.3.2003 and directed that due to abolition of shops of the society and further abolition of post of salesman and also due to the allotment of private shop in the name of the petitioner, the service of the petitioner is terminated.

(4) Learned counsel for the petitioner submits that the aforesaid order of termination is not in accordance with law. He further submits that the petitioner is apprehending that now these private shops are also to be closed and in the said situation the petitioner would be jobless.

(5) Heard the learned counsel at length. Also perused the petition and the documents annexed therewith. It is apparent from the order dated 21.3.2003 (Annexure P-1) that due to implementation of the Master Scheme 2001, the shops run by the Co-operative Societies have been abolished and they were allotted to the persons in their individual capacity. The

petitioner was also allotted the shop at Narayanpur and is running the same. This allotment in the name of the petitioner in private capacity and the acceptance thereof itself shows that the petitioner did not continue with the services of the co-operative society w.e.f 21.3.2003.

(6) A bare perusal of the order dated 31.3.2003 shows that since the new Public Distribution Scheme provides for privatization of the fair price shops and further since the shop allotted to the co-operative society has been abolished and the petitioner was allotted the said shop in his individual capacity, therefore, the services of the petitioner is being terminated. In fact, this is a formal order in relation to clearance of accounts and charges which the petitioner was holding when he was working as a salesman of the fair price shop of the co-operative society. This court does not find any illegality in passing the order Annexure P.2 which is, in fact, a formal order for clearing the dues by the petitioner after leaving the services of the society by taking a separate fair price shop on his name under the Scheme 2001 vide order dated 21.3.2003 (Annexure P-1).

(7) Coming to the next point of apprehension about the cancellation/abolition of the individual fair price shop of the petitioner, this Court can only say that the apprehension is unfounded. No documents have been filed by the petitioner which may show that his individual shop is going to be cancelled. This court exercising powers under Article 226/227 of the Constitution of India cannot issue any such writ on the unfounded apprehension of a party for which even no prima

facie substance has been brought on record. In the opinion of this Court, in fact, no cause of action has arisen in favour of the petitioner to file a petition in this regard. It is merely an apprehension and the petition is premature.

(8) Having thus considered the entire facts and circumstances, this Court is of the opinion that there is no merit in the petition. The petition deserves to be and is hereby dismissed at the admission stage itself without notice to the other side. No orders as to cost.

(9) Consequently, M.W.P.2865/2004 and I.A.No.6961/2004 stand disposed of.

Sd/-
Sunil Kumar Sinha
Judge

6.01.2005

/Rao/